

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 09/08/2014

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SWISHER INTERNATIONAL INC.

Plaintiff,

v.

TOP SHELF SWEETS LLC, et al.

Defendants.  
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14 Civ. 2715 (JMF)

Order

**STIPULATION OF SETTLEMENT  
CONSENT JUDGMENT AND ORDER OF DISMISSAL**

WHEREAS, the captioned action (the "Action") was commenced by Swisher International Inc. ("Plaintiff") on April 16, 2014 by the filing of a Summons and Complaint against Top Shelf Sweets LLC, Syndicate Global Enterprises LLC, Diana Vu McDonough and Thanh Vu (collectively "Defendants");

WHEREAS, Plaintiff and Defendants are interested in resolving the issues alleged in the complaint in this Action, and have negotiated in good faith for that purpose;

WHEREAS, none of the parties to the above-captioned Action is an infant or incompetent person;

WHEREAS, Plaintiff and Defendants have agreed to voluntarily enter into this Stipulation of Settlement, Consent Judgment and Order of Dismissal and have now consummated a settlement agreement disposing of all claims in the Action, and in which Defendants agree to a Consent Judgment;

WHEREAS, the parties wish the Court to retain jurisdiction over any disputes arising from or relating to this Consent Judgment, Order of Dismissal and/or the Settlement Agreement;

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff and Defendants, and SO ORDERED that Defendants and their controlled businesses, agents, servants, employees, successors and assigns and all persons in active concert or participation with Defendants (the "Enjoined Parties"), who shall receive notice of this Consent Judgment by personal service or otherwise, are:

a) Permanently enjoined from:

(i) Using the word SWEETS, Swisher's SHIELD LOGO or any colorable imitation thereof in connection with the purchase, offer for sale, sale or distribution of liquid solutions and vapor flavors for electronic cigarettes or cigars, and any other present or future tobacco product, smokers' article or smoking cessation device;

(ii) Using any domain name that comprises or includes the words "SWEETS" in connection with the advertising, sale or distribution of liquid solutions and vapor flavors for electronic cigarettes or cigars, and any other present or future tobacco product, smokers' article or smoking cessation device; and

(iii) Using the word SWEETS, Swisher's SHIELD LOGO or any colorable imitation thereof in connection with any online social network and third-party websites, to advertise or promote liquid solutions and vapor flavors for electronic cigarettes, any other tobacco product, smokers' article or smoking cessation device.

b) Ordered to:

(i) Remove, within thirty (30) days of the entry of this Stipulation, Order, and Consent Judgment, the SHIELD LOGO and the word SWEETS from all labels, products, signs, prints, packages, wrappers, receptacles, advertisements and other material which are used or intended to be used in commerce in connection with the sale, offering for sale, distribution or advertising of liquid solutions and vapor flavors for electronic cigarettes and all other smoker's article in Defendants' possession; and

(ii) Notify, within thirty (30) days of the entry of this Stipulation and Order, and Consent Judgment, all their third party vendors, websites, advertisers and distributors that Defendants' products bearing the Shield Logo and/or the word SWEETS are to be discontinued immediately.

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff and Defendants, and SO ORDERED by the Court that this action is dismissed *with prejudice* and without costs, and that the Court shall retain jurisdiction over any disputes arising from or relating to this Order of Dismissal, Consent Judgment and/or the Settlement Agreement.

Date: September 4, 2014

For the Plaintiff

  
Swisher International Inc.

Name: CHRISTOPHER L. CASEY

Position: SENIOR V.P. AND GENERAL COUNSEL

Date: 9/1/14

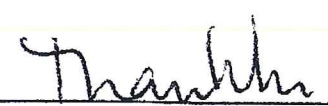
For the Defendants

  
For Top Shelf Sweets LLC

Name: Diana McDonough

Position: OWNER

Date: 9/1/14

  
For Syndicate Global Enterprises LLC

Name: Thanh Vu

Position: OWNER

Date: 9/1/14

  
Diana Vu McDonough

Date: 9/1/14

  
Thanh Vu

**SO ORDERED:**

Dated: September 8, 2014

New York, New York

  
JESSE M. FURMAN  
UNITED STATES DISTRICT JUDGE

The Clerk of the Court is directed to close the case.